

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: www.fcc.gov/mb/audio/

ENGINEER: CHARLES N. (NORM) MILLER
TELEPHONE: (202) 418-2767
FACSIMILE: (202) 418-1410
E-MAIL: charles.miller@fcc.gov

December 3, 2009

Richard J. Hayes, Jr., Esq.
27 Water's Edge Drive
Lincolntonville, Maine 04849

Re: KJMQ (FM), Lihue, Hawaii
Facility Identification Number: 49898
Hochman Hawaii Four, Inc.
Special Temporary Authorization

Dear Counsel:

This is in reference to the request filed December 1, 2009, on behalf of Hochman Hawaii Four, Inc. ("HHFI"). HHFI requests special temporary authority ("STA") to operate Station KJMQ with temporary facilities.¹ In support of the request, HHFI states that the station can no longer remain at its licensed site and that it holds Construction Permit BPH-20090928AJT, to relocate its transmitter to the proposed STA site. HHFI states that construction of the full facilities authorized by the permit will be time consuming, and that a new power line required for the full authorized facilities has not yet been constructed. HHFI requests STA for operation from the permit site with a temporary antenna and with effective radiated power and antenna height less than the permit values.

Section 73.1615, which governs operation during modification of facilities, provides that licensees holding construction permits for modification of directional or nondirectional FM and TV or nondirectional AM facilities may discontinue operation, may operate with temporary facilities to maintain, as nearly as possible, but not exceed, the size of the currently licensed coverage area. Such operation may commence upon notification to the FCC, and may continue for a period not exceeding 30 days. Should it be necessary to continue such operation beyond 30 days, a request for STA must be filed prior to the 30th day.

Accordingly, the request for STA IS HEREBY GRANTED. Station KJMQ may operate from the site authorized by Construction Permit BPH-20090928AJT, employing a temporary antenna with antenna height and effective radiated power less than the permit values. It is anticipated that the full permit facilities will be constructed and an application for license to cover the permit filed prior to the expiration date below. HHFI must use whatever means are necessary to protect

¹ KJMQ is licensed for operation on Channel 251C1 (98.1 MHz) with effective radiated power ("ERP") of 51 kW (H&V) and antenna height above average terrain ("HAAT") of 4 meters. Construction Permit BPH-20090928AJT authorizes relocation of the transmitter and operation with ERP of 4 kW and HAAT of 518 meters.

workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **June 3, 2010**.

STA Advisory: Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles N. Miller", with a long horizontal flourish extending to the right.

Charles N. Miller, Engineer
Audio Division
Media Bureau

cc: Hochman Hawaii Four, Inc.